Single Bench

(2) (4)

CF-1002

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)
WRIT PETITION NO.4373 2006

PETITIONER Thakur Ram Patel S/o Shri Shiv Prasad Patel aged about 40 years, Panchyat Karmi, Gram Panchyat Budeli, Resident of Village-Budeli, Post-Malda, Block and Tahsil-Sarangarh District-Raigarh (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through the Secretary Panchyat & Rural Development Department D.K.S.Bhawan Raipur (C.G.)
2. The prescribed Authority and Deputy Director Panchyat and Social Welfare Raigarh Dist. Raigarh (C.G.)
3. The Chief Executive Officer, Sarangarh, Dist. Rairarh C.G.
4. Gram Panchyat Budeli through Sarapanch of Gram Panchyat Budeli, Post-Malda thasil-Sarangarh Dist. Raigarh (C.G.)
5. Jairam Jangde- (Assistant Gram-Panchyat Officer) Sachiv of Gram Panchyat-Budeli Post-Malda, Block & Tahsil Sarangarh Dist. Raigarh (C.G.)

P.R.No. 4417/06
Presented by Shri PMSHUKLA
dated 14/8/06

RECEIVED-COPY
14/8/06
CLERK to A.G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE COUNSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CEERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERES:

XI-HC-78

(28)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP/4373/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	18.8.2006 Mr. R.S. Patel, Advocate for the petitioner. Mrs. Anju Ahuja, Dy. G.A. for respondent No.1 & 2 on advance copy. Heard. By this petition, the petitioner has requested for quashment of order-dated 9.6.2006 (Annexure P-1) whereby the petitioner has been removed from the post of Panchayat Karmi of Gram Panchayat Budeli. Learned counsel for the petitioner submitted that the petitioner was appointed as Panchayat Karmi vide order dated 29.10.1995 (Annexure P-2) and now the petitioner has been removed from the post of Panchayat Karmi without holding any enquiry, as envisaged under the Chhattisgarh Panchayat Services (Discipline and Appeal) Rules, 1999 (for short "Rules, 1999"). The grievance raised by the petitioner has merit for consideration. Rules, 1999 deals with the Panchayat Karmi service conditions. Rule 4 deals with the suspension, Rule 5 prescribes the minor & major penalties and removal from the services comes under the major penalty. Rule-7 deals with the procedure for imposing major penalties, which envisages that " *no order, imposing on a member of the Panchayat Service, any of the penalties specified in clause (iv) to (via) of rule 5 shall be passed except after a formal inquiry is held as far as may be, in the manner hereinafter provided.'* As per provisions of Rule-7, the disciplinary authority is required to frame definite charges on the basis of allegations and shall communicate such charges, along with the statement of the allegations, to the member of the Panchayat Service and also require him to submit, within such time as may be specified, a written statement of defence and also to state whether he	

P.T.O.

(26)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

desires to be heard in person and after receipt of the written statement of the defence, the disciplinary authority may himself inquire into such charges as are not admitted or appoint an Enquiry Officer to hold the inquiry and forward to him his report.

It is admitted position that before passing the impugned order regarding removal of the petitioner from the post of Panchayat Karmi, no such inquiry was held by the respondents and learned counsel for the petitioner very fairly submitted that he is questioning the impugned order to the extent that the petitioner has been removed from the post of Panchayat Karmi without holding enquiry. Therefore, as far as the removal of the petitioner from the post of Panchayat Karmi vide impugned order is concerned, same is ex-facie, illegal and contrary to the provisions of Rules, 1999, as such, issuance of notice to respondent Nos.3 & 4 will be a futile exercise and it will unnecessarily delay the matter, therefore, without issuing notices to respondent No.3 & 4 this petition is being disposed of. However, it is made clear that if respondent No.3 & 4 still feel aggrieved by this order, then they are at liberty to file I.A. for recalling this order and that I.A. will be disposed of after hearing both the parties.

In the result, the petition of petitioner is allowed and the impugned order dated 9.6.2006 (Annexure P-1) is hereby quashed to the extent that the removal of the petitioner from the post of Panchayat Karmi is illegal.

Consequently, M.(W.)P. No.3391/06 also stand disposed of.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

P.T.O.

21.8.06 23.8.06 5.9.06

ent